

Federal Communications Commission

§ 73.5005

will be permitted to resolve their mutual exclusivities by means of engineering solutions or settlements during a limited period after the filing of short-form applications, as further specified by Commission public notices:

(1) Applicants for all broadcast services who file major modification applications that are mutually exclusive with each other;

(2) Applicants for all broadcast services who file major modification and new station applications that are mutually exclusive with each other; or

(3) Applicants for the secondary broadcast services who file applications for new stations that are mutually exclusive with each other.

(e) Applicants seeking to resolve their mutual exclusivities by means of engineering solution or settlement during a limited period as specified by public notice, pursuant to paragraph (d) of this section, may submit a non-universal engineering solution or settlement proposal, so long as such engineering solution or settlement proposal results in the grant of at least one application from the mutually exclusive group. A technical amendment submitted under this subsection must resolve all of the applicant's mutual exclusivities with respect to the other applications in the specified mutually exclusive application group.

[69 FR 72043, Dec. 10, 2004, as amended at 75 FR 9806, Mar. 4, 2010]

§ 73.5003 Submission of full payments.

Winning bidders are required to pay the balance of their winning bids in a lump sum prior to the deadline established by the Commission pursuant to § 1.2109(a) of this chapter. If a winning bidder fails to pay the balance of its winning bid in a lump sum by the applicable deadline as specified by the Commission, it will be allowed to make payment within ten (10) business days after the payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due in accordance with § 1.2109(a) of this chapter. Broadcast construction permits will be granted by the Commission only after full and timely payment of winning bids and any applicable late

fees and in accordance with the provisions of this section.

[71 FR 6228, Feb. 7, 2006]

§ 73.5004 [Reserved]

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, or FCC Form 349) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by § 1.2107(d) of this chapter (concerning any bidding consortia or joint bidding arrangements); § 1.2110(j) of this chapter (concerning designated entity status, if applicable); and § 1.2112 of this chapter (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).

(b) The long-form application should be submitted pursuant to the rules governing the service in which the applicant is a high bidder and according to the procedures for filing such applications set out by public notice. When electronic procedures become available for the submission of long-form applications, the Commission may require all winning bidders to file their long-form applications electronically.

(c) An applicant that fails to submit the required long-form application under this section, and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and shall be subject to the payments set forth in 47 CFR 1.2104(g).

(d) An applicant whose short-form application, submitted pursuant to § 73.5002(b), was not mutually exclusive with any other short-form application in the same service, or whose short-form application was mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6), shall submit an appropriate long-form application within thirty (30) days following release of a

public notice identifying any such non-mutually exclusive applicants. The long-form application should be submitted pursuant to the rules governing the relevant service and according to any procedures for filing such applications set out by public notice. The long-form application filed by a non-mutually exclusive applicant need not contain the additional exhibits, identified in paragraph (a) of this section, required to be submitted with the long-form applications filed by winning bidders. When electronic procedures become available, the Commission may require any non-mutually exclusive applicants to file their long-form applications electronically.

[63 FR 48629, Sept. 11, 1998, as amended at 67 FR 45375, July 9, 2002; 68 FR 26229, May 15, 2003; 68 FR 43000, July 21, 2003; 69 FR 72044, Dec. 10, 2004; 75 FR 9806, Mar. 4, 2010]

§ 73.5006 Filing of petitions to deny against long-form applications.

(a) As set forth in 47 CFR 1.2108, petitions to deny may be filed against the long-form applications filed by winning bidders in broadcast service auctions and against the long-form applications filed by applicants whose short-form applications were not mutually exclusive with any other applicant, or whose short-form applications were mutually exclusive only with one or more short-form applications for a noncommercial educational broadcast station, as described in 47 U.S.C. 397(6).

(b) Within ten (10) days following the issuance of a public notice announcing that a long-form application for an AM, FM or television construction permit has been accepted for filing, petitions to deny that application may be filed. Within fifteen (15) days following the issuance of a public notice announcing that a long-form application for a low-power television, television translator or FM translator construction permit has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof

must be supported by affidavit of a person or persons with personal knowledge thereof. In the AM, FM and television broadcast services, the time for filing such oppositions shall be five (5) days from the filing date for petitions to deny, and the time for filing replies shall be five (5) days from the filing date for oppositions. In the low-power television, television translator and FM translator broadcast services, the time for filing such oppositions shall be fifteen (15) days from the filing date for petitions to deny, and the time for filing replies shall be ten (10) days from the filing date for oppositions.

(d) Broadcast construction permits will be granted by the Commission only if the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, and after full and timely payment of winning bids and any applicable late fees. See 47 CFR 73.5003. Construction of broadcast stations shall not commence until the grant of such permit or license to the winning bidder and only after full and timely payment of winning bids and any applicable late fees.

[69 FR 72044, Dec. 10, 2004, as amended at 71 FR 6228, Feb. 7, 2006]

§ 73.5007 Designated entity provisions.

(a) *New entrant bidding credit.* A winning bidder that qualifies as a “new entrant” may use a bidding credit to lower the cost of its winning bid on any broadcast construction permit. Any winning bidder claiming new entrant status must have de facto, as well as de jure, control of the entity utilizing the bidding credit. A thirty-five (35) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have no attributable interest in any other media of mass communications, as defined in § 73.5008. A twenty-five (25) percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, have an attributable interest in no more than three mass media facilities. No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed